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**FISCAL IMPACT STATEMENT**

**LS 6538**

**BILL NUMBER: SB 285**

**NOTE PREPARED: Feb 1, 2010**

**BILL AMENDED: Feb 1, 2010**

**SUBJECT:** Sale and Tracking of Ephedrine.

**FIRST AUTHOR:** Sen. Yoder

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill requires the Attorney General (AG) to enter into a memorandum of understanding with an entity to provide a pseudoephedrine (PSE) tracking system that meets certain standards.

The bill prohibits a retailer from selling, and a purchaser from purchasing, more than 3.6 grams of ephedrine or pseudoephedrine on one day, or nine grams of ephedrine or PSE in a 30-day period. (Current law prohibits the sale of products containing more than 3 grams of ephedrine or PSE in one transaction.)

The bill requires a retailer who sells drugs containing ephedrine or pseudoephedrine to: (1) post a sign warning that it is a criminal offense for a person to purchase drugs containing more than certain quantities of ephedrine or pseudoephedrine; and (2) require the clerk who is conducting the transaction to personally advise a purchaser that it is a criminal offense for a person to purchase drugs containing more than certain quantities of ephedrine or pseudoephedrine. It also provides that, upon request, the clerk who conducts the transaction shall advise the purchaser how many grams of ephedrine or pseudoephedrine are contained in the drugs being purchased.

The bill requires a retailer to electronically transmit certain information concerning the sale of ephedrine and PSE to a statewide PSE tracking system. The bill also specifies that the Board of Pharmacy shall adopt certain rules concerning a pharmacy that does not comply with PSE tracking requirements. It further provides that a retailer must begin entering data into the PSE tracking system not later than 180 days after the AG enters into a memorandum of understanding.

The bill provides that an exemption to the tracking requirement for persons who do not sell exclusively to

walk-in customers will now only apply to persons who do not sell to any walk-in customers.

The bill also requires the Indiana State Police (ISP) to report before June 30, 2013, to the Legislative Council concerning the effectiveness of PSE tracking in reducing the illicit production of methamphetamine.

**Effective Date:** July 1, 2010; January 1, 2011.

**Explanation of State Expenditures:** This bill would require a person to begin entering data into an electronic PSE tracking system selected by the Attorney General's office. It also requires the Board of Pharmacy to adopt rules and procedures regarding a pharmacy or pharmacist that violates the entry requirements for the electronic sales tracking system. The bill's requirements are within the Board of Pharmacy's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels. The Attorney General's Office reported that the resources necessary to implement the electronic PSE tracking system are currently not known.

(Revised) The bill requires the ISP to report to the Legislative Council before June 30, 2013, concerning the effectiveness of PSE tracking. The availability of the resources necessary to prepare the required report is not known at this time.

**Background Information:** Current law requires retailers selling drugs with ephedrine or pseudoephedrine to complete a paper or electronic log. Currently, three retailers are electronically submitting data to the Indiana State Police (ISP). Records, both electronic and paper records are maintained by the ISP for two years, unless a suspicious pattern of consumption is detected in the electronic records, at which point a record may be maintained for five years. Indiana was given software by Tennessee for the electronic log. No funds have been allotted or expended on the electronic log to date.

Handgun license fees in excess of \$1.1 M are available to the ISP to operate and maintain the central repository for criminal history or to establish, operate, and maintain an electronic log of drug sales if the funds are allotted by the State Budget Agency. In FY 2009, the total handgun license fee revenues were \$6.4 M, and the portion available for the two allowed purposes was approximately \$5.3 M.

The bill specifies (1) that retailers and law enforcement agencies may not be charged a fee for access to the system; (2) the security requirements of the system and the frequency of data updates to the ISP; (3) the capacity of the system to stop sales; and (4) that the operating entity shall not modify sales transaction data that is provided to law enforcement.

There is another electronic tracking system that was developed by the National Association of Drug Diversion Investigators (NADDI). The system is now being offered at no cost to states that have passed legislation to adopt real-time tracking of ephedrine and pseudoephedrine. The National Precursor Log Exchange (NPLEx). is a multi-state electronic tracking system that enforces purchase limitations on over-the-counter products containing pseudoephedrine in real time at the point of sale. Kentucky, Illinois, and Louisiana will be the first states to adopt NPLEx as their electronic tracking program.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** AG; Board of Pharmacy, IPLA; ISP.

**Local Agencies Affected:**

**Information Sources:** NADDI at:

[http://associationdatabase.com/aws/NADDI/asset\\_manager/get\\_file/12195/naddi\\_press\\_release\\_nov\\_2009.pdf](http://associationdatabase.com/aws/NADDI/asset_manager/get_file/12195/naddi_press_release_nov_2009.pdf)

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